



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Angela Skrabanek, O.T.R.

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-16-3001-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

May 31, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "As seen in the FCE report on page 8, under the heading "Cardiovascular Condition", [the injured employee's] rating was Undetermined as [the injured employee] was not able to complete any of the cardiovascular fitness testing therefore [the injured employee's] abilities are undetermined."

**Amount in Dispute:** \$846.24

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "This claim is in Texas Mutual's Texas Star Network ... Therefore, this matter must be dismissed ...

The documentation does not support a complete Functional Capacity evaluation as required in Division Rule 134.204 (g)(3).

The original FCE report submitted by EME on 7/14/15 does not list what type of cardiovascular intake method was used. The report states, 'undetermined as PT was unable to complete pace or minutes required'.

The FCE report submitted by EME on 8/26/15 with the request for reconsideration also does not list what type of cardiovascular intake method was utilized and states, 'undetermined as PT was unable to complete pace or minutes required'.

Division Rule 134.204 (g)(3) requires submaximal cardiovascular endurance tests which measure aerobic capacity using stationary bicycle or treadmill."

**Response Submitted by:** Texas Mutual Insurance Company

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 13, 2015	Functional Capacity Evaluation, 16 units	\$846.24	\$0.00

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §127.10 sets out the procedures for designated doctors.
3. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services from March 1, 2008 until September 1, 2016.
4. Texas Labor Code §408.0041 grants the Division of Workers' Compensation the authority to order designated doctor examinations.
5. Texas Insurance Code §1305 puts forth the requirements for claims subject to certified health care networks.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - A07 – Documentation does not meet the level of service required for FCE per rule 134.204(g)(3)(C).
  - CAC-150 – Payer deems the information submitted does not support this level of service.
  - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 724 – No additional payment after a reconsideration of services.

### **Issues**

1. Is the dispute in question eligible for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307?
2. Are Texas Mutual's documentation-based denials supported?

### **Findings**

1. Angela Skrabanek, O.T.R. is seeking reimbursement for a Functional Capacity Evaluation (FCE) performed July 13, 2015 in response to a referral from Designated Doctor Orin Hall. Texas Mutual Insurance Company (Texas Mutual) argued in its position statement that "this claim is in Texas Mutual's Texas Star Network ... Therefore, this matter must be dismissed." The division finds that the requestor is not in the Texas Star Network.

Designated doctor referrals are authorized under the Texas Labor Code and division rules. Texas Insurance Code Chapter 1305 contains a provision which limits applicability of certain 1305 Network requirements when they adversely affect powers granted to the division under the Labor Code. Specifically, Texas Insurance Code §1305.003 states, in pertinent part, that:

This chapter [TIC 1305] does not affect the authority of the division of workers' compensation of the department to exercise the powers granted to the division under Title 5, Labor Code, that do not conflict with this chapter [TIC 1305].

Texas Labor Code §408.0041 grants the division the exclusive authority to order a designated doctor to examine an injured employee and resolve questions or disputes over the injured employee's medical condition. 28 Texas Administrative Code §127.10 in turn authorizes designated doctors to make referrals when necessary to resolve the question(s) the designated doctor was ordered to address.

Because the services in question were provided under the authority of the Texas Labor Code and not under a certified health care network, the division concludes that the services are eligible for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307.

2. Texas Mutual denied the services in question with claim adjustment reason codes A07 – "DOCUMENTATION DOES NOT MEET THE LEVEL OF SERVICE REQUIRED FOR FCE PER RULE 134.204(G)3(C)," and CAC-150 – "PAYER DEEMS THE INFORMATION SUBMITTED DOES NOT SUPPORT THIS LEVEL OF SERVICE." In its position statement, Texas Mutual argued that the FCE report "does not list what type of cardiovascular intake method was utilized and states, 'undetermined as PT was unable to complete pace or minutes required'."

28 Texas Administrative Code §134.204(g)(3)(C) states, in relevant part, that FCEs shall include functional ability tests, which include “submaximal cardiovascular endurance tests which measure aerobic capacity using stationary bicycle or treadmill.”

Review of the submitted documentation does not support that a submaximal cardiovascular endurance test was performed pursuant to 28 Texas Administrative Code §134.204(g)(3)(C). Therefore, Texas Mutual’s denial for this reason is supported. No reimbursement is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

**Authorized Signature**

_____	Laurie Garnes	December 22, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**